



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

December 20, 2017

Jodi Khun, Executive Director
KinderCare Education, LLC
650 NE Holladay Street
Suite 1400
Portland, Oregon 97232-2096

Dear Ms. Khun,

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at Kinder Care Education, LLC (Sponsor), Application Agreement number 00-365, on September 28 and 29, 2017. The Sponsor is located out of state and information required to complete our review was requested and received on October 27, 2017. The purpose of this review was to determine if the Sponsor complied with the *Title 7 of the Code of Federal Regulations (CFR)* applicable parts, application agreement, and applicable Federal and State regulations.

Based on our review of the Sponsor's records and information provided, the Sponsor had ten affiliated child care centers approved and operating during the test month of September 2017. We selected the KinderCare 301272 site and the KinderCare 301233 child care centers as our sample sites. In addition, enrollment and income eligibility applications were reviewed at KinderCare 301307 to meet statistical sampling requirements.

Background

CACFP Sponsors utilize meal count sheets to record the number of meals served for breakfast, lunch and supplement meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP Sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) to seek reimbursement. We inspected meal count sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we observed a lunch meal service at KinderCare 301233 site on September 28, 2017, and a lunch meal service at KinderCare 301272 on September 29, 2017.

Our review of the Sponsor's records for September 2017 disclosed the following:

1. The Sponsor provided infant menus that were incomplete

Condition

The Sponsor provided infant menus for the sample sites that were incomplete. The menus were not dated for each day that infants were served. In addition, the menus provided did not indicate the meal components served to the infants who were able to consume ready to eat foods. However, the Sponsor did provide a cycle menu that contained the dates on Friday for each week in the test month, and these menus were used to confirm infant meals during the daily meal services.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15(e) states, "Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records... (10) Copies of menus, and any other food service records required by the State agency. ..."

Recommendation

The Sponsor should maintain infant menus that are dated and report what meal components are served when the infant is developmentally ready. Conversations with the parents of infants regarding what types of foods are acceptable should be on-going.

2. The Sponsor had one center operating without a working thermometer for the refrigerator

Condition

During our site visit on September 29, 2017 at KinderCare 301272, we observed the temperature in the refrigerator was 20°F. However, the foods in the refrigerator were not frozen. The thermometers for the refrigerator were found to be broken or not reporting temperature properly. We were unable to verify that food and milk were kept within a safe temperature range.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(l) states "Institutions and facilities must ensure that in storing, preparing, and serving food proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions and facilities must ensure that adequate facilities are available to store food or hold meals."

The USDA *Basics for Handling Food Safely* states, "The refrigerator should be at 40 °F (4.4 °C) or below and the freezer at 0 °F (-17.7 °C) or below."

Recommendation

The Sponsor should ensure food items are properly stored, and working thermometers are checked to ensure refrigerators and freezers are safely storing perishable and frozen foods.

Technical Assistance Provided

During our exit conference on November 22, 2017, technical assistance was provided regarding the infant menus. Additionally, we referred the Sponsor to Program staff for technical assistance regarding suggested updates for infant menus.

Corrective Action

Kinder Care Education, LLC must complete the following actions within 30 days from the date of this report:

- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

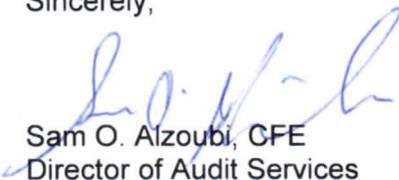
AuditServices.CAPS.DHS@tn.gov

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director
Child and Adult Care Food Program
8th Floor Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov
(615)313-3769

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Sean Baker, Audit Director 2, at 615-313-4727 or Sean.Baker@tn.gov.

Sincerely,



Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

cc: Rebecca Deems, Subsidy Food Program Administrator, KinderCare Education, LLC
Brenda Forrester, Compliance Coordinator, KinderCare Education, LLC
Debra Pasta, Program Manager, Child and Adult Care Food Program
Allette Vayda, Director, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Constance Moore, Program Specialist, Child and Adult Care Food Program
Elke Moore, Administrative Services Assistant 3, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT A:

Verification of CACFP Sponsor of Affiliated Centers Claim

Sponsor: Kinder Care Education, LLC

Review Month/Year: September 2017

Total Reimbursement: \$ 49,039.00

Program Area	Reported on Claim	Reconciled to Meal Count Sheets
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	17,324	17,324
Number of Breakfasts Served	12,697	12,697
Number of Lunches Served	14,685	14,685
Number of Supplements Served	15,677	15,677
Number of Participants in Free Category	476	476
Number of Participants in Reduced-Price Category	63	63
Number of Participants in Paid Category	560	560
Total Number of Participants	1,099	1,099
Total Number of Centers	XXXXXXXX	10

EXHIBIT B**Verification of Affiliated Sponsored Center Data****Center: KinderCare301233****Total Reimbursement: \$5,242.20**

Program Area	Reported on Claim	Reconciled to Provided Documents
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	1,807	1,807
Percentage of Participants in the Free or Reduced-price Category	XXXXXXXX	52%
Number of Breakfasts Served	1,241	1,241
Number of Lunches Served	1,536	1,536
Number of Supplements Served	1,691	1,691
Number of Participants in Free Category	57	57
Number of Participants in Reduced-Price Category	5	5
Number of Participants in Paid Category	57	57
Total Number of Participants	119	119
Total Amount of Food Costs	XXXXXXXX	\$3,190.92
Total Amount of Eligible Food and Nonfood Costs	XXXXXXXX	\$3,525.06

EXHIBIT C**Verification of Affiliated Sponsored Center Data****Center: KinderCare 301272****Total Reimbursement: \$3,978.07**

Program Area	Reported on Claim	Reconciled to Provided Documents
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	2,104	2,104
Percentage of Participants in the Free or Reduced-price Category	XXXXXXXX	34%
Number of Breakfasts Served	1,489	1,489
Number of Lunches Served	1,744	1,744
Number of Supplements Served	1,781	1,781
Number of Participants in Free Category	28	28
Number of Participants in Reduced-Price Category	13	13
Number of Participants in Paid Category	94	94
Total Number of Participants	135	135
Total Amount of Food Costs	XXXXXXXX	\$4,058.85
Total Amount of Eligible Food and Nonfood Costs	XXXXXXXX	\$6,157.97

EXHIBIT D**Verification of Affiliated Sponsored Center Data****Center: KinderCare 301307**

Program Area	Reported on Claim	Reconciled to Provided Documents¹
Number of Participants in Free Category	134	134
Number of Participants in Reduced-Price Category	11	11
Number of Participants in Paid Category	20	20
Total Number of Participants	165	165

¹Only applications were reviewed at this site to meet statistically valid sample requirements



Tennessee Department of Human Services
Corrective Action Plan for Monitoring Findings

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.
Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: KinderCare Education, LLC	Agreement No. 00365	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 650 N E Holladay Street Suite 1400 Portland Oregon 97232-2096

Section B. Responsible Principal(s) and/or Individual(s)

Name and Title: Jodi Khun, Executive Director	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 12/20/2017	Corrective Action Plan: 12/20/2017
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Section D. Findings

- Findings: 1. The Sponsor provided infant menus that were incomplete
 2. The Sponsor had one center operating without a working thermometer for the refrigerator

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

Measure No. 1: The Sponsor provided infant menus that were incomplete

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: _____

Date: / /

Signature of Authorized TDHS Official: _____

Date: / /

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

Appeal Procedures for Child and Adult Care Food Program-Institutions
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continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.